

State of California  
BOARD OF EQUALIZATION

**CIGARETTE AND TOBACCO PRODUCTS TAX REGULATIONS**

**Regulation 4609. RIGHT TO APPEAL.**

*Reference:* Sections 22974.7, 22978.7, 22979.7, Business and Professions Code.

**(a)** Every licensee or unlicensed person has the right to appeal any alleged violation of the Act, and may appeal a Warning Notice or Notice of Violation issued by the Excise Taxes Division, as specified below:

(1) If the Notice of Violation contains a penalty of revocation and/or a fine of more than \$2,500, the Notice of Violation may be appealed as follows:

**(A)** The first appeal shall be to the Excise Taxes Division;

**(B)** If the licensee or unlicensed person disagrees with the Notice of First Decision, as specified in Regulation 4700, subdivision (h), issued by the Excise Taxes Division, the licensee or unlicensed person may make a second appeal to the Appeals Division; and

**(C)** If the licensee or unlicensed person disagrees with the Notice of Second Decision, as specified in Regulation 4701, subdivision (c), issued by the Appeals Division, the licensee or unlicensed person may make a third appeal to the Board for a final decision.

(2) If the Notice of Violation or Warning Notice does not contain a penalty of revocation or a fine of more than \$2,500, the Notice of Violation or Warning Notice may be appealed as follows:

**(A)** The first appeal shall be to the Excise Taxes Division; and

**(B)** If the licensee or unlicensed person disagrees with the Notice of First Decision issued by the Excise Taxes Division, the licensee or unlicensed person may make a second appeal to the Appeals Division for a final decision.

**(b)** If a timely appeal is made, a conference and/or hearing will be scheduled to allow the licensee or unlicensed person requesting an appeal an opportunity to contest the violation(s) and show cause why the penalties should not apply or should be reduced.

**(c)** Burden of Proof. The licensee or unlicensed person shall have the burden of proof as to the grounds for dismissal of any violations or for the reduction of penalties.

*History:* Adopted December 12, 2006, effective April 21, 2007.